

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2015-003826

09/14/2016

HONORABLE PATRICIA ANN STARR

CLERK OF THE COURT
J. Eaton
Deputy

CIMARRON HOMEOWNERS ASSOCIATION MICHAEL C LAMB

v.

KAREN KOWAL-SHAW

KAREN KOWAL-SHAW
PO BOX 51746
PHOENIX AZ 85076

MINUTE ENTRY

The Court has considered Plaintiff's Application for Attorneys' Fees and Non-Taxable Expenses, Statement of Costs and Notice of Taxation, and Proposed Form of Judgment, all filed August 22, 2016. Defendant has not responded.

Failure to respond may be deemed consent to granting of the motion, pursuant to Rule 7.1(b), Ariz. R. Civ. P.

Plaintiff is entitled to fees and non-taxable costs pursuant to the terms of the Declaration of Covenants, Conditions and Restrictions for Cimarron. Plaintiff is also entitled to attorneys' fees pursuant to A.R.S. § 12-341.01.

The Court finds that Defendant is the prevailing party pursuant to A.R.S. § 12-341.01. The Court has considered all relevant factors and finds that an award of attorneys' fees is appropriate. *Associated Indemnity Corp. v. Warner*, 143 Ariz. 567, 694 P.2d 1181 (1985). Specifically, the Court has considered: (1) whether the unsuccessful party's claim or defense was meritorious; (2) whether the litigation could have been avoided or settled and the successful party's efforts were completely superfluous in achieving the result; (3) whether a fee award would be an extreme hardship; (4) whether the successful party prevailed with respect to all of the relief sought; (5) whether the matter presented a novel legal question; and (6) whether the award would discourage other parties with tenable claims or defenses from litigating them.

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The Court also finds that the Application meets the requirements of *Schweiger v. China Doll Restaurant, Inc.*, 138 Ariz. 183, 673 P.2d 927 (App. 1983).

The Court finds a reasonable amount of attorneys' fees to be \$9,000.

The Court further finds Plaintiff is entitled to an award of non-taxable costs in the amount of \$605.11.

The Court further finds that Plaintiff is entitled to taxable costs in the amount of \$707.46.

IT IS ORDERED awarding Plaintiff attorneys' fees in the amount of \$9,000, non-taxable costs in the amount of \$605.11, and taxable costs in the amount of \$707.46.

IT IS FURTHER ORDERED signing the form of judgment, as modified by the Court, as of this date.